

REMARKS

Reconsideration and allowance of this application, as amended, are respectfully requested. Claim 25 has been amended. New claims 35-43 have been added. Claims 1-43 are now pending in the application. The rejections are respectfully submitted to be obviated in view of the amendments and remarks presented herein.

Applicants indicate that although Petch et al. (U.S. Patent Number 5,781,593) was used as a secondary reference in a 35 U.S.C. § 103(a) rejection, it was not cited on the PTO-892 form of references cited.

As required by the Office Action, the title has been changed to be more clearly indicative of the invention. Accordingly, the Examiner is requested to withdraw the outstanding objection to the specification. Claim 25 has also been editorially amended solely to correct typographical errors.

Applicants acknowledge with gratitude the indication that claims 10-13 and 17-19 are allowed, and that claims 5 and 6 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In the Amendment, therefore, new claim 35 has been added to include all of the limitations of independent claim 1 and dependent claim 5. New claim 36 has also been added and is dependent on claim 35.

35 U.S.C. § 102(b) – Choi et al.

Claims 1-4, 7, 14 and 20-24 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Choi et al. (U.S. Patent Number 5,781,553) (hereinafter “Choi”). The rejection is respectfully traversed.

Regarding claim 1, Applicants’ claimed invention relates to a data communication control system in a mobile communication system capable of providing voice communication service or data communication service. Applicants’ claimed data communication control system comprises “a base station controller and switching system which determines a communication path which selectively provides a voice communication service or a data communication service in response to a call request requested by a calling party,” as recited in claim 1.

Applicants respectfully submit that the disclosure of Choi does not anticipate the claimed invention. Choi refers to a PBX switching system performing simultaneous transmission and reception of voice data and control data between a base station and a terminal device for a telephone conversation. There is no teaching of selectively providing a voice communication service or a data communication service in response to a call request requested by a calling party, as claimed in claim 1. Choi discloses the simultaneous transmission and reception of voice data and control data. However, Choi’s control data is not analogous to Applicants’ data communication service. Choi’s control data are system commands and system control parameters, such as handover, and does not refer to

communication data (see column 16, lines 55-64). Applicants further respectfully submit that Choi does not teach or suggest any modification to its disclosure that would result in at least features of selectively providing a voice communication service or a data communication service as recited in claim 1.

At least by virtue of the aforementioned differences, Applicants' claim 1 distinguishes over Choi. Applicants' claims 2-4, 7, 14 and 20-24 depend from claim 1, and therefore define patentable subject matter for at least that reason as well as for their additionally recited features. Reconsideration and withdrawal of the rejection under § 102(b) are respectfully requested.

35 U.S.C. § 103(a) – Petch et al.

Claims 15, 16, 25 and 27-34 stand rejected under 35 U.S.C. § 103(a) as allegedly being obvious over Petch et al. (U.S. Patent Number 5,781, 593) ("Petch"). The rejection is respectfully traversed.

Regarding claims 15, 16 and 25, Applicants' claims 15, 16 and 25 are dependent claims including all of the limitations of independent claim 1, which, as established above, distinguishes over Choi. Petch adds nothing to rectify the above-described deficiencies associated with Choi. Applicants' claim 1 recites that a base station controller and switching system "selectively provides a voice communication service or a data communication service." Petch teaches only a method of synchronizing vocoders in a wireless

communication network. Petch fails to suggest the claimed feature of “a base station controller and switching system which determines a communication path which selectively provides a voice communication service or a data communication service in response to a call request requested by a calling party.” At least by virtue of the aforementioned differences, Applicants’ claims 15, 16 and 25 are patentable over the asserted combination of references. Reconsideration and withdrawal of the rejection of claims 15, 16 and 25 under § 103(a) are respectfully requested.

Regarding claims 27-34, neither Choi nor Petch disclose “a first communication device having a first data transfer protocol; a second communication device having a second data transfer protocol ... wherein the first data transfer protocol and the second data transfer protocol are different.” Petch discloses a signaling protocol for acquiring and maintaining vocoder synchronization between components of a wireless communication network, however, there is no teaching that the protocol differs between components. At least by virtue of the aforementioned differences, Applicants’ claims 27-34 are patentable over the asserted combination of references. Reconsideration and withdrawal of the rejection of claims 27-34 under § 103(a) are respectfully requested.

Newly Added Claims

Claims 35-43 are newly added by this Amendment and believed to be in condition for allowance.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned agent, Lenny R. Jiang, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
FLESHNER & KIM, LLP



Daniel Y. J. Kim
Registration No. 36,186
Lenny R. Jiang
Registration No. 52,432

P.O. Box 221200
Chantilly, Virginia 20153-1200
703 766-3701 DYK:LRJ:tljw
Date: January 5, 2004

Please direct all correspondence to Customer Number 34610